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BASEL CONVENTION

Open-ended Working Group of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal
Eleventh meeting
Geneva, 3–6 September 2018
Item 3 (c) (ii) of the provisional agenda•

Matters related to the work programme of the Open-ended Working Group for 2018–2019: legal, governance and enforcement matters: providing further legal clarity

Providing further legal clarity

Note by the Secretariat

I. Introduction

A. Review of Annexes I, III and IV and related aspects of Annex IX to the Basel Convention

1. By its decision BC-13/2, on the follow-up to the Indonesian-Swiss country-led initiative to improve the effectiveness of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal, the Conference of Parties, among other things, established an expert working group on the review of the Annexes with a mandate and terms of reference as set out in annex II to that decision.

2. In the same decision, the Conference of Parties requested each regional group to nominate, through its Bureau representative and by 15 July 2017, 10 experts with relevant expertise to serve as members of the expert working group. It invited Parties to serve as lead countries for the review of Annex IV and related aspects of Annex IX and/or Annexes I and III, and agreed that the expert working group should give higher priority to work on Annex IV and related aspects of Annex IX during the next biennium. It also invited Parties and observers involved in the expert working group to submit, taking into account the report from Canada on the review of Annexes I, III and IV and related aspects of Annex IX to the Convention (UNEP/CHW.13/INF/10, annex), comments on that review to the Secretariat by 30 September 2017 for consideration by the expert working group and requested the Secretariat to publish any such comments on the Basel Convention website. Finally, the Conference of Parties requested the Secretariat to report on the implementation of the same decision to the Open-ended Working Group at its eleventh meeting and to the Conference of the Parties at its fourteenth meeting.

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B. Review of Annexes II, VIII and IX to the Basel Convention

3. By its decision BC-13/17, on the work programme and operations of the Open-ended Working Group for the biennium 2018–2019, the Conference of Parties, among other things, invited Parties and others to submit comments on whether to consider the review of Annexes II, VIII and IX to the Basel Convention, taking into account the approach outlined in annex II of document UNEP/CHW.12/INF/52, and requested the Secretariat to compile the comments submitted for consideration by the Open-ended Working Group at its eleventh meeting.

4. In the same decision, the Conference of Parties also adopted the work programme of the Open-ended Working Group for the biennium 2018–2019, annexed to that decision, whereby it, among other things, mandated the Open-ended Working Group to consider whether to review Annexes II, VIII and IX to the Convention.

II. Implementation

A. Review of Annexes I, III and IV and related aspects of Annex IX to the Basel Convention

5. As at 3 April 2018, a total of 36 experts had been nominated by the regional groups to serve as members of the expert working group and 26 representatives of Parties and observers had expressed interest in participating in the group.[1] As at that same date, no Party had expressed interest in serving as lead country for the review of Annex IV and related aspects of Annex IX and/or Annexes I and III.

6. Pursuant to the invitation set out in decision BC-13/2 for Parties and observers involved in the expert working group to submit comments on the review of Annexes I, III and IV and related aspects of Annex IX to the Convention to the Secretariat by 30 September 2017, a total of eight submissions were received by the Secretariat.[2] These submissions were made available on the website of the Convention.[3]

7. Working by electronic means, the expert working group elected Ms. Jacinthe Séguin (Canada) and Mr. Joost Meijer (Chile) as co-chairs of the expert working group, the former initially serving until the eleventh meeting of the Open-ended Working Group.

8. Also working by electronic means, including by holding online consultations on 2 November 2017, the expert working group agreed on a workplan until the eleventh meeting of the Open-ended Working Group focusing on the review of Annex IV and related aspects of Annex IX (B1110) to the Convention and providing for a face-to-face meeting to be held subject to the availability of funding.

9. On 24 November 2017, the Secretariat invited the members of and observers to the expert working group to submit comments on the review of Annex IV and related aspects of Annex IX (B1110) to the Convention by completing, by Tuesday 30 January 2018, the tables set out in the three working documents prepared by the co-chairs.

10. The 17 submissions received on the three working documents of the co-chairs, including one submission on behalf of the European Union and its member States and three submissions by observers, are available on the website of the Convention.[4]

11. The expert working group subsequently met for online consultations on 20 February 2018 and, following the provision of generous financial support by the Government of Japan, held its first meeting in Geneva from 20 to 23 March 2018.[5]

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[1] For the full list of members and observers, see http://www.basel.int/Implementation/LegalMatters/LegalClarity/ReviewofAnnexes/AnnexesI,III,IVandrelatedaspectsofAnnexIX/ExpertWorkingGroup/tabid/6105/Default.aspx.

[2] Submissions received from Argentina, Canada, Colombia, the European Union and its member States, India, the State of Palestine, Switzerland and Tunisia.

[3] See the first table at http://www.basel.int/Implementation/LegalMatters/LegalClarity/ReviewofAnnexes/AnnexesI,III,IVandrelatedaspectsofAnnexIX/Activities20182019/tabid/6125/Default.aspx.

[4] See the second table at http://www.basel.int/Implementation/LegalMatters/LegalClarity/ReviewofAnnexes/AnnexesI,III,IVandrelatedaspectsofAnnexIX/Activities20182019/tabid/6125/Default.aspx.

[5] Information about and meeting documents for the first meeting of the expert working group on the review of the Annexes are available at http://www.basel.int/Implementation/LegalMatters/LegalClarity/Meetings/1stRAEWGmtg/tabid/6237/Default.aspx.

12. Information pertaining to the first meeting of the expert working group, including documents and the report of the meeting, are available on the website of the Convention.[6] A note by the co-chairs of the group on the way forward for the review of Annexes I, III and IV and related aspects of Annex IX to the Basel Convention, for the consideration of the Open-ended Working Group, is set out in the annex to document UNEP/CHW/OEWG.11/INF/30.

B. Review of Annexes II, VIII and IX to the Basel Convention

13. As at 27 April 2018, pursuant to the invitation set out in decision BC-13/17, comments on whether to consider the review of Annexes II, VIII and IX to the Basel Convention were submitted by Argentina, the Central African Republic, Iraq, Madagascar and the Philippines. The comments were made available on the website of the Convention[7] and are set out in the annex to document UNEP/CHW/OEWG.11/INF/31.

III. Proposed action

14. The Open-ended Working Group may wish to adopt a decision along the following lines:

The Open-ended Working Group

1. *Welcomes* the work undertaken by the expert working group on the review of Annexes I, III and IV and related aspects of Annex IX to the Basel Convention and takes note of the note by its co-chairs on the way forward;[8]

2. *Also welcomes* the comments submitted by Parties on whether to consider the review of Annexes II, VIII and IX to the Basel Convention;[9]

3. *Encourages* Parties and others that have not done so to submit by 31 October 2018 comments on whether to consider the review of Annexes II, VIII and IX to the Basel Convention, taking into account the approach outlined in annex II to document UNEP/CHW.12/INF/52;

4. *Requests* the Secretariat to compile the comments referred to in paragraph 2 above and received pursuant to paragraph 3 above for consideration by the Conference of the Parties at its fourteenth meeting;

5. *Recommends* that the Conference of the Parties at its fourteenth meeting consider whether to review Annexes II, VIII and IX to the Basel Convention.

15. The Open-ended Working Group may also wish to consider any further action on this issue, including those recommended actions included in the note by the co-chairs of the group on the way forward for the review of Annexes I, III and IV and related aspects of Annex IX to the Basel Convention set out in the annex to document UNEP/CHW/OEWG.11/INF/30.

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[6] See http://www.basel.int/Implementation/LegalMatters/LegalClarity/MeetingsWorkshops/1stRAEWGmtg/tabid/6237/Default.aspx.

[7] See http://www.basel.int/Implementation/LegalMatters/LegalClarity/ReviewofAnnexes/AnnexesII,VIIIandIX/tabid/6270/Default.aspx.

[8] UNEP/CHW/OEWG.11/INF/30.

[9] UNEP/CHW/OEWG.11/INF/31.